

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

In re ZETIA (EZETIMIBE) ANTITRUST
LITIGATION

MDL No. 2:18-md-2836

THIS DOCUMENT RELATES TO:
All Direct Purchaser Actions

ORDER

Upon consideration of Plaintiffs' Motion to Compel Merck to Search for and Produce Responsive Non-Privileged Pre-Execution Forecasting Documents and Add Three Custodians, (ECF No. 408), and for the reasons stated on the record, it is hereby ORDERED that the motion is GRANTED in part, as follows:

1. Within fourteen (14) days after entry of this Order, Merck shall:

a. Conduct a search of the custodial files of Paul McCrorey, Duane Majka and Patrick Magri for the January 1, 2009 to December 31, 2010 time period, using the following search strings:

- i. (Zetia* or ezetim* or eze) w/100 (generic* or GX* or AG* or "No AG" or "No-AG" or "auth* generic*")
- ii. (Zetia* or ezetim* or eze) w/100 ("180 day" or 180d or "six month*" or "6 month*" or (first w/3 file) or FTF)
- iii. (Zetia* or ezetim* or eze) and (LOE* or (loss w/2

excl*) or "L.O.E." or (loss w/2 exclusiv*) or
(lose* w/2 exclusiv*) or (lost w/2 exclusiv*) or
(losing* w/2 exclusiv*) or "base case" or "best
case" or "worst case" or forecast or FCST or LBE
or upside or downside or scenario* or model* or
analys* or projection* or assumption*

- b. Provide Plaintiffs the total raw number of returned search results.
2. Within ten (10) days thereafter, Merck shall:
 - a. Produce all non-privileged search-return documents to Plaintiffs to the extent such documents have not already been produced.
 - b. Log all documents withheld on the basis of privilege to the extent such documents have not already been logged as privileged in other productions.

IT IS SO ORDERED.

/s/
Douglas E. Miller
United States Magistrate Judge

DOUGLAS E. MILLER
UNITED STATES MAGISTRATE JUDGE

September 24, 2019